IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1227 OF 2006

Paresh Vasanji Shah ..Applicant
V/s.
The State of Maharashtra & Anr. ..Respondents

Mr.K.G.Menon Senior Advocate with Mr.A.M.Chimalkar with R.B.Thakra and J.L.Phoujdar for the applicant.

Mr.Vijay Pradhan i/by M/s.Kiran Jain & Co. for Respondent no.2.

Mr.S.S.Tatkare APP for the State.

Coram : R.S.Mohite,J

Date : 6th June, 2006.

PC

1. This is an application filed for grant of anticipatory bail. The applicant Paresh Vasanji Shah is shown as an accused alongwith one Ramesh Busa in C.R.No.104/2005 registered by the Malbar Hill police station for alleged offences punishable under Sections 420, 465, 467, 468, 473 read with Section 506(II) of IPC. The crime has been registered on the complaint lodged by one Jayalaxmi Mehta who is the mother-in-law of the applicant. On perusing the complaint the allegations therein pertain to the use of forged cheques by the present applicant and the siphoning of the monies from 5 accounts by the accused. The 5 accounts from which the monies were siphoned out and the amounts alleged to have been taken have been specified in the FIR.

Of these, 3 accounts belong to Amritlal Mehta who was the head of the family and who fell ill in the year 1999. The transactions by use of forged cheques are alleged to have taken place between the years 2000-2004 during which period Mr.Amritlal Mehta was indisposed.

2. It was argued on behalf of the applicant that the complaint was false and frivolous. It was pointed out that there was no use of forged cheques as far as account of complainant Jayalaxmi Mehta and her daughter Preeti are concerned. In the investigation the documents pertaining to the account of Preeti have not yet been collected. The documents concerning Jayalaxmi Mehta have been taken into custody by the investigating officer and prima facie, it appears that the signature on the various cheques tallied with the bank record. The signature on the cheques presented in the 2 accounts of Mr.Amritlal Mehta however, do not appear to tally with the sample signature of the bank account. As far as 3rd account being overdraft account is concerned, it appears that signature given to the bank as specimen signature itself does not tally with the signature available with the bank and given prior to May-1999 which was the year in which Mr.Amritlal Mahta has fell ill. As far as account no.11194 of Mr.Amritlal Mehta, prima facie, it appears that his signature is forged by more than

one person. In the circumstances, it appears that there is some substance in the FIR in so far as the same pertains to the accounts of Mr.Amritlal Mehta. It may be mentioned that the allegations relating to the accounts of complainant Jayalaxmi Mehta and her daughter Preeti prima facie appear to be exaggerated or not true but opening of a false bank account and the withdrawal of monies is a matter for investigation and such investigation cannot be shut out by grant of anticipatory bail. It may be mentioned in this regard that in so far as the withdrawal of Rs.25,00,000/- from account 40492 being the overdraft account of Mr.Amritlal Mehta, the bank document relating to the said withdrawal has been signed by the present applicant.

3. It was contended on behalf of the applicant that all these transactions were with the consent of the Complainant and her daughter and they were in the know of such forged cheques utilised to effect the bank transaction. Even if that is assumed to be true, that does not absolve the applicant's role in the use of such forged cheques. The question is what was the intention of opening the account of Mr.Amritlal Mehta and as to how these monies have been utilised. It was next argued that in the FIR there was reference to opening of another account. It was contended by the Counsel for the applicant that all these monies were utilised for the benefit

of the firm. He drew my attention to Exhibit-K to the petition which was an account for an amount of Rs.79,57,915/- drawn from the account, Churchgate branch is furnished. Learned APP after taking instructions from investigating officer states that the investigating officer has not been able to verify the utilisation of account as given in the petition relating to this amount. It is seen that the present investigating officer took over the investigation in January-2006. Based upon lack of investigation in this direction, it was contended by Mr.Menon for the applicant that the investigation is being conducted in a one sided manner. Without drawing any inference in this regard, taking into account the fact that the amount of forgery exceeds Rs.25,00,000/- and that there may be a possibility of a larger conspiracy possibly involving bank officers and also taking into account the fact that there appears to be a bank fraud, I am inclined to transfer the investigation to the Economic Offences Wing of the Crime branch. The Economic Offences Wing, crime branch will continue the investigation from the present stage and will verify all aspects of the matter and the involvement if any of family members in the offence. Subject to this direction petition is dismissed. At this stage, the learned Advocate for the applicant states that his client has a running business. The case is based on documentary evidence and documents in respect of

four forged accounts have already been taken into custody by the investigating officer. On taking instructions from the applicant who is present in the Court, he gives an undertaking to this Court that the applicant will surrender before the investigating officer on or before 23.6.2006. The undertaking given by the Counsel on behalf of the applicant is accepted. Till 23.6.2006 the applicant may not be arrested subject to the condition that he reports to the investigating officer between 10.00 A.M. and 5.00 P.M. on 12th and 19th June 2006. Investigation may be transferred to Economic Offences Wing of the crime branch after 23.6.2006. Certified copy expedited.

(R.S.Mohite,J)